

December 2020

Proposal to grant a variation of appointment to Icosa Water Services Ltd as a sewerage company

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1. About this document

We propose granting a variation of appointment to Icosa Water Services Ltd (“**Icosa Water**”) as a sewerage company and varying the appointment of Southern Water Services Limited (“**Southern Water**”) as a sewerage company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

Icosa Water Services Limited (“**Icosa Water**”) has applied for a variation to its appointment to be able to provide sewerage services to a site called Woodacres, Arlington Road East, Hailsham, East Sussex, BN27 3NH (“**the Site**”). The Site will consist of 74 households, and no business customers.

Site boundary maps can be viewed in section 8 of this document.

This application has been submitted under the consent criterion as some of the properties are already built and occupied.

The Site is within the sewerage services area of Southern Water, who are the current services provider to the Site.

Icosa Water proposes to provide sewerage services to the Site by way of a bulk discharge agreement with Southern Water.

3. The applicant

On 20 October 2016, Icosa Water Limited was appointed as a water and sewerage undertaker for a site called West Raynham in Norfolk. On 20 December 2016, Icosa Water Services Limited (the applicant), who is a subsidiary of Icosa Water Limited, applied to take over the appointment for the West Raynham site under the consent criterion. Since then Ofwat has agreed to vary Icosa Water’s areas of appointment so that it serves a further 69 sites for water and/or sewerage services. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant the variation of appointment of Icosa Water as a sewerage company to include the Site in its sewerage services area; and

- vary the appointment of Southern Water as a sewerage company by excluding the Site from its sewerage services area.

By means of the above, Icosa Water will become the sewerage services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,¹ provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

6. The application

Icosa Water has applied to be the sewerage company for the Site under the consent criterion, set out in section 7(4)(a) of the WIA91.

6.1 Consent criterion

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

Icosa Water has provided correspondence between itself and Southern Water, in which Southern Water provides its consent for Icosa Water to provide sewerage services to the Site. Icosa and Southern Water will jointly write to each customer individually informing them of the change in supplier. The same process for customer transfer as used with the existing Toddington Lane (357) customers will be applied by Southern Water and Icosa Water for the Woodacres, Arlington Road customers.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector

customers (“**Business Customers**”) in England and Wales are able to choose their supplier².

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Icosa Water proposes to match Southern Water’s charges for its customers on the Site. Charges will be as per Icosa Water’s charges scheme. Charges will not exceed those that would otherwise be charged by Southern Water. No discounts are being offered to customers on this development.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers (often referred to as “codes”). We have assessed Icosa Water’s proposed Core Customer Information, and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above Codes of Practice and the Customer Code than they would be if Southern Water were to be the customers’ sewerage services supplier.

6.5 Site owner choice

Icosa Water has the consent of the Site developer Kitewood Estates Limited to become the sewerage services provider.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 Ml where the relevant area is wholly or mainly in Wales) can effectively switch suppliers of water and/or sewerage from 1 April 2017.

6.6 Environment Agency (EA), Drinking Water Inspectorate (DWI) and Consumer Council for Water (CCW)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. The EA, CCW and DWI informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Southern Water's existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much Southern Water might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with Icosa Water.

We estimate no potential annual increase on the sewerage bills of existing Southern Water's customers if we grant this variation to Icosa Water. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to Icosa Water would have no financial impact on customers' bills and could have potential benefits for customers.

³ The Environment Agency, Consumer Council for Water and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant appointment/variation be granted. Following our review, which considered our standard analysis and the specific risks associated with the Site, we have concluded that in all scenarios we have considered, the Site is able to demonstrate that its expected revenues will cover its expected operating costs.

Icosa Water has provided a letter of guarantee which sets out an agreement that Icosa Water has access to a loan facility, which Icosa Water can draw down at any time up to 17 November 2021. This meets our requirements, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time. On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that Icosa Water would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing Icosa Water's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Icosa Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the variation on the existing customers of Southern Water.

We are currently minded to grant the variation under the consent criterion. We are consulting on our proposal to do so.

7.1 Where to send submissions

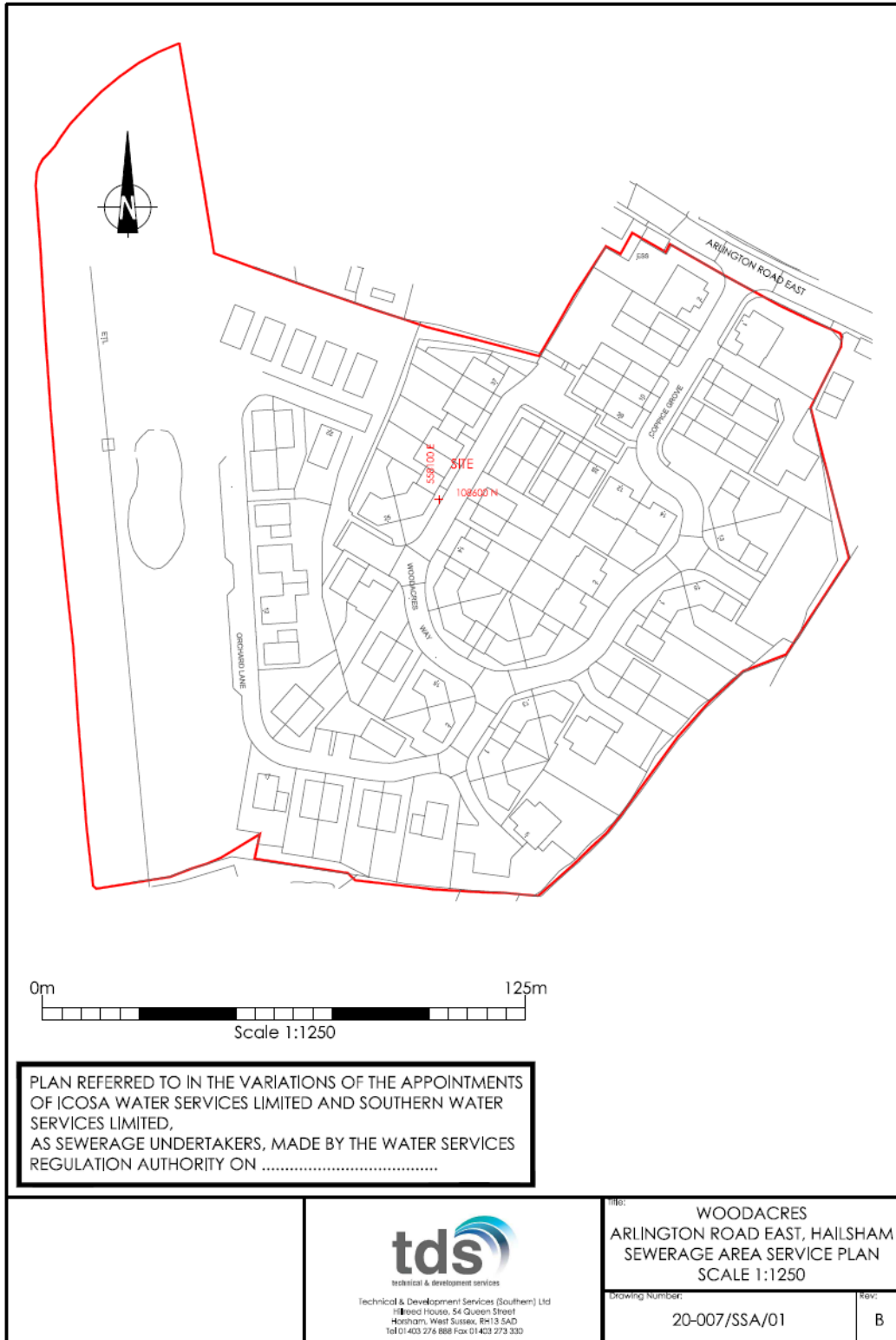
Any person who wishes to make representations or objections with respect to the application should do so in writing to Sonali Yande at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at licensing@ofwat.gov.uk

Representations must be received by Ofwat no later than 17.00 hours on 30 December 2020. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site map

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**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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